IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.205/1999

1. Shri Netto Derick Francis
Pereira, major, presently
working as Joint Mamaltdar,
Sanguem, Goa.

2. Narayan Vishnu Prabhudesai,
major, presently working
as Mamlatdar, Collectorate of
North Goa, at Panaji, Goa. ..... Petitioners.

Vs.

1. State of Goa,
through its Chief Secretary,
Government of Goa,
with his Office at
Secretariat, Panaji, Goa.

2. Secretary (Finance),
Government of Goa,
with his office at
Secretariat, Panaji, Goa. .... Respondents.

Mr. S.D. Lotlikar, Sr. Advocate with Mr. A.D. Bhobe, Advocate for the petitioners.

Mr. A.N.S. Nadkarni, Advocate General with Mr. P.A. Kamat, Addl. Govt. Advocate for the respondents.

CORAM : F.I. REBELLO &
P.V. HARDAS, JJ.

DATE : JULY 29, 2003.

ORAL JUDGMENT: (Per REBELLO, J.)

The petitioners came to be appointed to the post of Mamlatdar/Joint Mamlatdar in the pay scale of Rs.2000-3200 pursuant to they being selected by the Goa Public Service Commission. On they being selected,

they were placed in the pay scale of Rs.2000-60-2300-EB-75-3200 with effect from the date of their joining. The petitioners joined the said post and continue to function in the said post. They were also drawing their pay in the scale of Rs.2000-3200.

The respondent State by Order dated 27.10.1997 were pleased to adopt the revision of pay on par with the Central Government employees based on the recommendations of the Fifth Pay Commission, subject to modifications set out therein. It is the case of the petitioners that the pay scale for the post of Mamlatdar/Joint Mamlatdar/Block Development Officer/Asst. Director of Civil Supply as per the recommendations of Fourth Pay Commission, was Rs.1640-2900. Various representations were made to the Government that the said pay scales were low. The Government having realised that there was an anomaly, by Order dated 26.10.1992 was pleased to revise the pay scales applicable to the post of Mamlatdar/Joint Mamlatdar/BDO/Asst. Director of Civil Supply from Rs.1640-2900 to Rs.2000-3200 not with retrospective effect i.e. from 1.1.1996, but prospective from the date of issuance of the said order. The said revision took place before they were appointed to the post of Mamlatdar/Joint Mamlatdar based on the Order dated

27.10.1997. The revised pay scales of all the categories aforestated were fixed not based on the pay scales of Rs.2000-3200, but on the basis of Rs.1640-2900. The petitioners pay scales were fixed assuming that their pay scales were Rs.1640-2900 and not the pay scale of Rs.2000-3200 the pay scales which were advertised when the vacancies were notified by the Goa Public Service Commission and in terms of the Recruitment Rules. Various other challenges have been made. One of the reliefs sought for is that the petitioners be given the pay scale of Rs.6500-200-10500, which corresponds to pay sale of Rs.2000-60-2300-75-3200. In view of the affidavit-in-reply filed by the State, it is not necessary to go into the various contentions.

2. On behalf of the respondents, Joint Secretary, (Personnel) Shri D.M. Borkar has filed an affidavit. In paragraph 6, it is set out as under :

> " I state that the petitioners were appointed pursuant to advertisement issued by Goa Public Service Commission in which scale of Rs.2000-3200 was given. This was an apparent mistake. In view of this, the Government has presently in view of above

> decided to keep this pay scale of the petitioners, which is now equivalent to Rs.6500-10500 under V Pay Commission. However, the same presently shall be treated as being personal to them...."

There are other averments in which the respondents state that the pay scale of Mamaltdar/Joint Mamaltdar/BDO/Asst. Director of Civil Supply shall remain at Rs.5500-9000. It is further set out that upon further examination if the State Government is so advised or felt necessary to act in larger public interest and interest of public exchequer, the State Government while examining other cases would pass appropriate orders. We are really not called upon to consider that aspect of the matter as in law if the respondent State is entitled to take appropriate steps, they shall be so entitled.

However, in so far as averments in paragraph 6 of the reply are concerned, the petition can be disposed of in view of the decision by the State Government to give the petitioners the revised pay scale of Rs.6500-10500, which corresponds to pay scale of Rs.2000-3200 given to them as personal to them.

3. In view of the above, the petition is allowed. Rule made absolute inasmuch as the respondents are directed to grant to the petitioners pay scale of Rs.6500-10500 and accordingly make payment in terms of the order dated 27.10.1997. The respondents are directed to complete the entire exercise within 8 weeks from today. No order as to costs.

F.I. REBELLO, J.

P.V. HARDAS, J.

ssm.